

**Notice of Allowability**

Application No.

10/603,221

Examiner

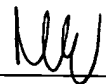
Sherman D. Basinger

Applicant(s)

JELTEN, JEFFREY A.

Art Unit

3617



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed September 2, 2004.
2. ☒ The allowed claim(s) is/are 1-3,5-7,10-12 and 15-19.
3. ☒ The drawings filed on 25 June 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In paragraph [0038] "**adjustable collar 541**" in lines 11-13 of the paragraph has been changed in each instance to **–adjustable collar 540–**.

2. The following is an examiner's statement of reasons for allowance:  
Claim 1 and the claims depending therefrom are allowed in view of applicant's arguments set forth in lines 14-26 of page 12 of 14 of the response filed September 2, 2004 and lines 4-18 of page 13 of 14 of the response filed September 2, 2004.

Claim 15 and the claims depending therefrom are allowed in view of the limitation "each plate with a horizontal flange along an upper extent of the plate, the flange extending outwardly from the fin" and "wherein the flanges form a step disposed to enable a person in the water to place a foot thereon in order to assist the person in leveraging himself out of the water and into the boat".

Plates 17 of Meredith do not have such flanges and none of the prior art of record provide motivation to modify the plates of Meredith to have such flanges.

In the first office action claim 15 was indicated as being allowable if rewritten in independent form. While applicant in the remarks filed September 2, 2004 stated that he did so, he did not. Claim 15 as originally filed defined the flange as such:

a horizontal flange along the upper extent of each of the two parallel plates, the  
*flanges extending in opposite directions to allow the propulsion means to*  
*unimpededly move from the third position to the fourth position therebetween.*

Nevertheless, claim 15 is allowed for the reasons stated above.

Claim 16 and the claims depending therefrom are allowed in view of the limitation "a flexible fin comprising two overlapping panels, the fin captured between two parallel plates fixedly attached to the lower end and extending in a generally perpendicular direction from the lower end, the fin pivotably attached about a second horizontal axis passing through the plates and the panels so that the plates frictionally capture the fin therebetween". Applicant references this limitation in his remarks, page 12 of 14, filed September 4, 2004, but does not argue why this limitation makes claim 16 allowable. However, the arguments presented in lines 14-26 of page 12 of 14 of the response filed September 2, 2004 and lines 4-18 of page 13 of 14 of the response filed September 2, 2004, while pertaining specifically to claim 1, would equally apply to claim 16.



Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sherman D. Basinger  
Primary Examiner  
Art Unit 3617  


sdb  
9/20/04